

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

HSBC BANK USA, NATIONAL
ASSOCIATION, AS TRUSTEE

No. C 09-05646 WHA

Plaintiff,

ORDER TO SHOW CAUSE

v.

LUIS AND KARINA ABRECKOV,

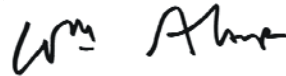
Defendants.

Defendants Luis and Karina Abreckov have filed a motion for injunctive relief against plaintiff HSBC Bank USA. Before addressing defendants' motion, a predicate issue must be resolved. Defendants removed this action for unlawful detainer from Alameda County Superior Court. Plaintiff's complaint asserted claims for possession of real property and damages under California law but did not allege any federal claims. Although defendants asserted in their notice of removal that "this Court has Original Jurisdiction founded on a claim or right arising under the U.S. Constitution violative of our Civil Rights arising from the same action in a State Court," it is not enough for removal purposes that a federal question may arise during the course of litigation in connection with some defense or counterclaim. "[A] defendant may not remove a case to federal court unless the *plaintiff's complaint* establishes that the case 'arises under' federal law." *Franchise Tax Board v. Construction Laborers Vacation Trust*, 463 U.S. 1, 10 (1983) (emphasis in original; superceded by statute on other grounds).

1 Defendants are therefore **ORDERED TO SHOW CAUSE** why this action should not be
2 remanded back to state court for lack of removal jurisdiction. Defendants must file a written
3 response **ON OR BEFORE DECEMBER 24, 2009**. Plaintiff may also file a submission addressing
4 this issue by the same date.

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6 **IT IS SO ORDERED.**

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8 Dated: December 9, 2009.



9 WILLIAM ALSUP
10 UNITED STATES DISTRICT JUDGE
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